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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10 VICTOR ABEYTA,

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12 Petitioner,

13 vs.

14 G. J. GIURBINO, Warden,

15 Respondent.
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Case No. CV 06-2173-AG (OP)

ORDER ADOPTING FINDINGS,
CONCLUSIONS, AND
RECOMMENDATIONS OF
UNITED STATES MAGISTRATE
JUDGE

17 Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition, all the
18 records and files herein, and the Report and Recommendation of the United States
19 Magistrate Judge. The Court concurs with and adopts the findings, conclusions, and
20 recommendations of the Magistrate Judge.

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1 IT IS ORDERED that Judgment be entered: (1) approving and adopting this
2 Report and Recommendation; and (2) directing that Judgment be entered granting
3 the Petition and ordering the trial court to resentence Petitioner only on the
4 California Penal Code section 12022.5(a) gun enhancement in accordance with
5 Sixth Amendment principles and consistent with the views set forth in this Report
6 and Recommendation.

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9 DATED: MARCH 31, 2009


HONORABLE ANDREW J. GUILFORD
United States District Judge

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12 Prepared by:

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16 HONORABLE OSWALD PARADA
17 United States Magistrate Judge
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